**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 392 OF 2006**

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Govind Vithoba Patil. .. Petitioner.

vs.

Dhaku Bayaji Kale

& Ors. . .. Respondents.

Mr. Rupesh Bobade for petitioner.

Mr. Amit Borkar for Respondent No.2.

Mr. S.K. Chinchalika, AGP.,for Respondent Nos. 4 & 5.

**CORAM : A.P. DESHPANDE, J.**

**DATE : 20th December, 2006.**

P.C.

. Rule. Rule is made returnable forthwith. Taken up for final hearing by consent of the parties.

2. The present petitioner claims to be the President of a public trust. The petitioner filed as many as five change reports under Section 22 of the Bombay Public Trusts Act bearing No. 92/01,

102/01, 123/01, 184/02 and 290/02. All the said change reports were heard together and rejected by the Assistant Charity Commissioner by an order dated 23.9.2005. Aggrieved by the said order three appeals came to be filed by the petitioner before the Joint Charity Commissioner. The Joint Charity Commissioner while rejecting the application seeking stay of the order passed by the Assistant Charity Commissioner, has directed that the managing committee elected for the period 1991-96 should look after the management of the trust until the election of the new body. The Assistant Charity Commissioner has also directed holding of the election. Taking overall view of the matter, the appellate authority has rejected the said application. Aggrieved by the same, the instant writ petitions have been filed.

3. All the parties to the petition agree that election is due on 7.1.2007 and needs to be held under the control of an impartial person to be nominated by the Assistant Charity Commissioner. As the elections are due on 7.1.2007, the respondent has also made an application to the Assistant Charity Commissioner on 16.12.2006 for nominating an election officer for holding of the election on 7.1.2007. All the parties are in agreement that no purpose would be served by adjudicating the appeals pending on the file of the Joint Charity Commissioner and cause of justice would advance by

holding of the election and by installing a democratically elected body to hold the reigns of the affairs of the trust.

4. In the result, I direct the Assistant Charity Commissioner, Sindhudurg Region, Respondent No. 4, to nominate one of his officers for conducting the elections of the trust on 7.1.07. The person so nominated as an election officer by the Assistant Charity Commissioner shall be competent to deal with all the issues raised during the conduct of the election including the question of membership and entitlement to vote. All the parties agree that the orders so passed by the election officer shall not be called in question until the election is over. The responded no. 4 is directed to nominate the election officer within a period of one week from today and the officer so nominated to proceed with the holding of the election as far as possible on 7.1.2007. But if there is any impediment in the constitution of the trust to hold the election on 7.1.2007 and if the officer requires some more time, he may hold the election as expeditiously as possible in accordance with law.

5. Rule is made absolute in the above terms.

6. Parties to act on authenticated copy of this

order duly authenticated by the Private Secretary of this Court.

**(A.P. Deshpande, J.)**